

<b>PRE-APPEAL BRIEF REQUEST FOR REVIEW</b>		Docket Number (Optional)  7114/81205					
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]  on _____  Signature _____  Typed or printed name _____	Application Number  10/806,832	Filed  March 23, 2004					
	First Named Inventor  Yuko Nishikawa						
	Art Unit  2426	Examiner  Joshua D. Taylor					
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <table style="width: 100%; border: none;"><tr><td style="width: 50%; vertical-align: top;"><input type="checkbox"/> applicant/inventor.  <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)  <input checked="" type="checkbox"/> attorney or agent of record. 46898 Registration number _____</td><td style="width: 50%; vertical-align: top; border-top: 1px solid black; border-bottom: 1px solid black; border-left: 1px solid black; border-right: 1px solid black;"><div style="text-align: right;">/Joseph F. Marinelli/</div><div style="text-align: right;">Signature</div><div style="text-align: right;">Joseph F. Marinelli</div><div style="text-align: right;">Typed or printed name</div><div style="text-align: right;">312/577-7000</div><div style="text-align: right;">Telephone number</div><div style="text-align: right;">July 1, 2009</div><div style="text-align: right;">Date</div></td></tr><tr><td style="vertical-align: top;"><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</td><td></td></tr></table> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"><tr><td style="padding: 5px;"><input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.</td></tr></table>			<input type="checkbox"/> applicant/inventor.  <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)  <input checked="" type="checkbox"/> attorney or agent of record. 46898 Registration number _____	<div style="text-align: right;">/Joseph F. Marinelli/</div> <div style="text-align: right;">Signature</div> <div style="text-align: right;">Joseph F. Marinelli</div> <div style="text-align: right;">Typed or printed name</div> <div style="text-align: right;">312/577-7000</div> <div style="text-align: right;">Telephone number</div> <div style="text-align: right;">July 1, 2009</div> <div style="text-align: right;">Date</div>	<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____		<input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.
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<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____							
<input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.							

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9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Appln No.: 10/806,832	)	Confirmation No. 4230
	)	
Filed: March 23, 2004	)	<u>VIA EFS WEB E-FILING</u>
	)	<u>On July 1, 2009</u>
Applicants: Nishikawa, et al.	)	
	)	
Title: Filter Criteria And Results Display	)	
Apparatus And Method	)	
	)	
Art Unit: 2426	)	
	)	
Examiner: Joshua D. Taylor	)	
	)	
Attorney Docket: 7114/81205	)	

Commissioner for Patents  
P. O. Box 1450  
Alexandria, Virginia 22313-1450

**BRIEF IN SUPPORT OF PRE-APPEAL REQUEST FOR REVIEW**

Dear Sir:

In response to the Final Office Action mailed dated April 1, 2009, and the Detailed Action mailed June 6, 2009, please enter the following brief in support of the attached Pre-Appeal Request for Review. A Notice of Appeal is submitted herewith.

Claims 1-17 were rejected under 35 U.S.C. §103(a) as being unpatentable over Ellis et al. (U.S. Patent No. 7,065,709) ("Ellis") in view of Robertson et al. (U.S. Patent No. 7,149,983) ("Robertson"), and further in view of Billmaier et al. (U.S. Patent No. 7,159,177) ("Billmaier"). Applicants respectfully observe that the rejections are based upon clear error.

The applicants describe and claim a method and system for an interactive program guide. Applicants' guide provides users with an organized and convenient way to navigate among a multitude and variety of program options by allowing the user to apply filters to the available programming options. In particular, Applicants' guide simultaneously displays the programming options resulting from the application of the user-selected filters along with the available filter criteria such that the user can readily change the filter criteria and view the results of the change. An embodiment of this feature of the invention is shown in FIG. 4 (reproduced below at the right),

in which Applicant provides for simultaneously displaying a horizontal row (31 and 33) of first and second user-selectable characterizing filter criteria ("1<sup>st</sup> and 2<sup>nd</sup> Filter Criterion A-C") along with a horizontal row (32) of characterizing descriptors ("1<sup>st</sup>-3<sup>rd</sup> Characterizing Descriptor(s)") that correspond to a present setting of the first and second plurality of

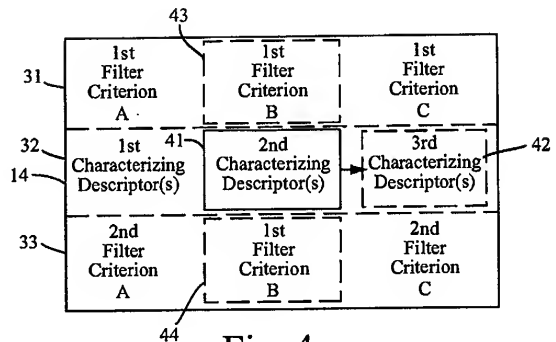


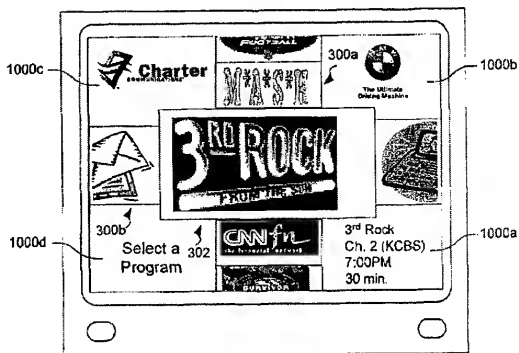
Fig. 4

user-selectable characterizing filter criteria. Applicants further provide that the first and second characterizing descriptor filter criteria (31 and 33) are displayed simultaneously in rows above and below the characterizing descriptors (32) corresponding to a present setting of the first and second user-selectable characterizing descriptor filter criteria. So configured, the user selects specific filter criterion in the upper row and in the lower row and the resultant display, in the center row, comprises corresponding programming results that meet these filter criteria. The user may view a program corresponding to a particular characterizing descriptor by moving an area of focus 41 over that selection in row 32. Alternatively, the user may change the filter criteria by moving the area of focus 41 to select among the results that correspond to the other available filter criteria in rows 31 and 33.

In making the rejection, the Examiner acknowledges that neither Ellis nor Robertson discloses "the first plurality of user-selectable characterizing descriptor filter criteria is displayed as a horizontal row of user-selectable characterizing descriptor filter criteria; the second plurality of user-selectable characterizing descriptor filter criteria is displayed as a horizontal row of user-selectable characterizing descriptor filter criteria; and the portion of the characterizing descriptors as correspond to a present setting of the first and second plurality of user-selectable characterizing descriptor filter criteria is displayed as a horizontal row of characterizing descriptors positioned between the first plurality of user-selectable characterizing descriptor filter criteria and the second

plurality of user-selectable characterizing descriptor filter criteria.” (claim 1, similar limitations in claims 10 and 12)

To meet this deficiency, the Examiner relies upon FIG. 10 of Billmaier,<sup>1</sup> which Applicants assert is clear error. FIG. 10 of Billmaier (reproduced at the right), discloses a vertical listing of programs (with “3<sup>rd</sup> Rock From The Sun” selected as the focus area 302) surrounded by quadrants 1000a – 1000d. The quadrant referenced as 1000a contains program information related to the program in focus area 302. The quadrant referenced as 1000b is an advertisement. The quadrant referenced as 1000c is branding information for the cable provider. The quadrant referenced as 1000d presents the user with generic instructions on selecting a program. The disclosure in FIG. 10 is further explained in column 12, lines 4-54 of Billmaier. In particular, Billmaier discloses that “the intersection of two displayed sequences 300 *may generate quadrants 1000 that may be used for various purposes*. In one embodiment, the quadrants 1000 are context-sensitive regions that display supplemental information, advertising, or the like, depending on the card 200 in the focus area 302. In another embodiment, one or more quadrants 1000 may display information targeted to the user based on user profile information within the ITV system 100.” (emphasis added)



Importantly, Billmaier does not disclose that quadrants 1000a – 1000d are in the same “horizontal row.” Rather, Billmaier discloses that “the intersection of two displayed sequences 300a-b may generate quadrants 1000 that may be used for various purposes.” (Billmaier, column 12, lines 4-8) Quadrants 1000a – 1000d are situated at the corners of, and separated by, intersecting display sequences 300a-b. This point is reinforced by the disclosure in Billmaier that “in alternative embodiments, a single vertical or horizontal sequence 300a-b may result in the creation of

<sup>1</sup> Office Communication of April 1, 2009 at pages 3-4; Detailed Action at pages 2-3.

hemispheres (not shown) rather than quadrants 1000.” (Billmaier at column 12, lines 48-51) In other words, the arrangement of “quadrants” or “hemispheres” is dictated by the configuration of horizontal or vertical sequences 300a-b, and not a desire to arrange the information into rows. More particularly, the information in these quadrants cannot be fairly viewed as comprising “rows” because of the intervening vertically-displayed programming information.

In addition, there is no correlation between information in the quadrants of Billmaier because the quadrants are “used for various purposes.” (Billmaier column 12, lines 5-6) For example, quadrant 1000c, which displays the cable provider’s branding identification, bears no correlation to quadrant 1000b, which displays a BMW advertisement. Similarly, quadrant 1000d displays user instructions that bear no correlation to quadrant 1000a, which displays program information. Therefore, Billmaier does not disclose “rows” of related kinds of information. Billmaier merely suggests dividing a display into quadrants, and displaying information in those quadrants related or unrelated to a program that is selected amongst a vertical row of programs dissecting the quadrants. Moreover, the arrangement of quadrants or hemispheres in Billmaier does not contribute to the functionality of the interface because the quadrants are not “user-selectable.” The quadrants merely display information that changes depending on the program selected as the focus area.

Applicants, on the other hand, provide for a display in which the filter criteria are displayed as horizontal rows of user-selectable items and where the results of the present setting of the filter criteria are displayed in a horizontal row between the rows of user-selectable filter criteria. As described in paragraphs [0036-0039] and [0042], the user can scroll along the rows of first and second filter criteria to select other filter criterion. The resulting characterizing descriptors corresponding to the selected filter criteria are displayed between the rows of filter criteria. The user can easily scroll upward or downward from the row of results to select different filter criteria. As the user selects different filter criteria, the results change. The orientation of filter criteria and results as described by Applicants permit the user to conveniently select different filter criteria by moving the areas of focus and simultaneously view the results in close visual proximity to the filter criteria.

Given the failure of Billmaier to meet the deficiencies in the disclosures of Ellis and Robertson, Applicants observe and submit that modifying either Ellis or Robertson based on Billmaier to include user-selectable characterizing descriptor filter criteria in horizontal rows and characterizing descriptors corresponding to the present setting of the first and second user-selectable characterizing descriptor filter criteria is hardly obvious and is certainly not a mere design choice. The quadrants disclosed in Billmaier are not arranged in rows; information in one quadrant is not correlated with information in the other quadrant; and the quadrants are not "user-selectable." Therefore, the mere suggestion in Billmaier of arranging a display into a quadrant-styled configuration does not suggest modifying Ellis and Robertson to arrange the first and second filter criteria in rows above and below characterizing descriptors corresponding to the first and second user-selectable characterizing descriptor filter criteria.

### **CONCLUSION**

The applicants respectfully submit that there exists at least one clear error in the rejection of at least one claim; thus, the applicants request that the application be allowed or that prosecution be re-opened.

Respectfully requested,

FITCH, EVEN, TABIN & FLANNERY

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Date: July 1, 2009

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